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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91161969
Party	Defendant Wilcox, Robert B. Wilcox, Robert B. 1538 Vista Claridad La Jolla, CA 92037
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Date	09/06/2005
Attachments	ApplicantResponsetoMotiontoCompel.pdf (5 pages)

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE RITZ CARLTON HOTEL
COMPANY, LLC
Opposer,

v.

ROBERT B. WILCOX,
Applicant.

Opposition No. 91161969

APPLICANT'S RESPONSE TO OPPOSER'S
MOTION TO COMPEL DISCOVERY

Robert B. Wilcox ("Applicant") hereby responds to the motion to compel by The Ritz-Carlton Hotel Company, L.L.C. ("Opposer"). It is Applicant's position that Applicant has provided Opposer with full and complete answers to all of Opposer's First Set of Interrogatories. Further, Applicant has made a good faith effort to resolve Opposer's concerns. However, to make yet another good-faith attempt to fully satisfy the

concerns raised in Opposer's Motion to Compel, Applicant will provide Opposer with a signed and verified amended response to Opposer's First Set of Interrogatories.

Additionally, Applicant agrees with Opposer's request that the Board issue an order resetting the testimonial periods in this case upon determination of this motion.

BACKGROUND

This proceeding arises from Opposer's opposition to federal registration of Applicant's RITZ mark (serial number 76/553029). On October 18, 2004, Opposer served its First Set of Interrogatories on Applicant. *See* Opposer's Motion to Compel Exhibit 1. Applicant's discovery requests encompassed a number of interrogatories relating to the issues of the selection, adoption, intended use, and use of Applicant's alleged mark.

On November 17, 2004, Applicant's counsel served Applicant's Answers to Opposer's First Set of Interrogatories. *See* Opposer's Motion to Compel Exhibit 2. All of the interrogatory answers and responses given were adequate, unambiguous, non-evasive, and complete to the best of Applicant's knowledge. Applicant's counsel signed the responses.

In a letter to Applicant's counsel dated February 22, 2005, Opposer sent a letter to Applicant's counsel alleging deficiencies in Applicant's discovery responses. *See* Opposer's Motion to Compel Exhibit 3. In a good-faith attempt to respond to Opposer's alleged deficiencies, Applicant sent a letter to Opposer's counsel dated March 2, 2005. *See* Opposer's Motion to Compel Exhibit 4. This letter provided further clarification of

Applicant's Answers to Opposer's First Set of Interrogatories, and completely responded to each alleged deficiency raised by Opposer.

On March 4, 2005, Opposer sent another letter to Applicant's counsel requesting that Applicant sign the interrogatory answers and verify them under oath. *See* Opposer's Motion to Compel Exhibit 5. In a letter dated March 24, 2005, Applicant again made a good-faith response to Opposer's letter. *See* Opposer's Motion to Compel Exhibit 9. Applicant addressed Opposer's concerns by providing information that was not clearly and specifically asked for in Opposer's First Set of Interrogatories or that was duplicative of previous responses provided by Applicant.

ARGUMENT

A. Applicant Will Provide Answers To Opposer's Interrogatories Signed By Applicant and Verified Under Oath

Applicant acknowledges that Section 405.04(c) of the TBMP requires interrogatories to be answered by the party served. Additionally, Applicant acknowledges that Section 405.04(b) requires that answers to interrogatories must be made separately and fully, in writing under oath. Therefore, Applicant will duly and expeditiously provide Opposer with a signed and verified amended answer to Opposer's First Set of Interrogatories.

B. Applicant Will Provide Amended Answers to Opposer's Interrogatories

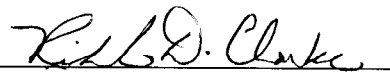
Applicant disagrees with Opposer's conclusion that Applicant has provided incomplete, evasive, and ambiguous answers to Opposer's First Set of Interrogatories. In good faith, Applicant has fully addressed all of Opposer's alleged deficiencies in letters

attached hereto. *See* Opposer's Motion to Compel Exhibits 4 and 9. However, in another good-faith attempt to resolve any and all of Opposer's outstanding concerns, Applicant will duly and expeditiously provide Opposer with a signed and verified amended answer to Opposer's First Set of Interrogatories that addresses the concerns raised in Opposer's Motion to Compel.

CONCLUSION

Applicant will duly and expeditiously provide a signed and verified amended answer that fully responds to Opposer's First Set of Interrogatories and the concerns raised in Opposer's Motion to Compel. Therefore, because each argument in Opposer's Motion to Compel will be moot, Applicant respectfully requests that Opposer's Motion to Compel be denied.

DATE: September 6, 2005

BY: 
Richard D. Clarke
Attorney for Applicant
Robert B. Wilcox, an individual

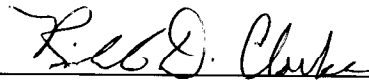
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **APPLICANT'S RESPONSE TO OPPOSER'S MOTION TO COMPEL DISCOVERY**, was served upon the following attorney of record for Opposer by depositing a true copy of same with the United States Postal Service as first class mail, postage prepaid, on this 6 th day of September, 2005.

Jason J. Mazur, Esq.
ARENT FOX KINTNER PLLC
1050 Connecticut Avenue, NW
Washington, D.C. 20036-5339

A handwritten signature in black ink, appearing to read "Richard D. Clarke", is written over a horizontal line.

Richard D. Clarke